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**STATE BOARD OF EQUALIZATION**

September 8, 1969

RE:

Dear

Your letter dated August 21, 1969 addressed to the State Board of Equalization has been referred to me for reply.

We understand that as the office manage of --- you were enrolled as a member in the --- Council of Business Managers, an activity "directed toward total fulfillment of the fundamental duties and responsibilities" of a --- business manager. Pursuant to this program, you were awarded contest points on the basis of your accomplishment of certain performance objectives. Under an agreement with the ---, accumulated points were redeemable in merchandise or in cash. You have enclosed a copy of that agreement and other pertinent documents in your letter.

After receiving points in the months of January, February and March in 1969, you forwarded them to --- and requested that it redeem them in cash rather than in merchandise. However, in billing --- for the amounts which you were to receive, as per the agreement, --- included sales tax reimbursement on its invoice. You ask whether invoicing sales tax reimbursement measured by cash to be received is proper under these circumstances.

We have previously ruled that where employees of a company are awarded points redeemable in merchandise pursuant to plans such as this, transfers of merchandise to the employees constitute sales, and the measure of tax is the amounts paid by the company for the merchandise which is distributed. Thus, had you redeemed your points for merchandise, tax would have applied. As previously mentioned, however, under the terms of the --- agreement, you had an option to redeem your points for cash, and you exercised that option. Under these circumstances we would agree with you that tax would not apply. Thus, --- would not be liable for sales tax on cash distributed by it, and --- would not be responsible for payment of sales tax reimbursement to ---.

Very truly yours

J. Kenneth McManigal  
Tax Counsel

JKM:ph bc: